



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Burl Brittain
County Auditor
San Patricio County
Sinton, Texas

Dear Sir:

Opinion No. 0-5330-A
Re: Authority of county to
lease land for use of
agency of Federal Govern-
ment -- supplemental

Your telegram of the 16th requesting that we
supplement our opinion number 0-5330, reads, in part, as
follows:

"Opinion 0-5330 covers period of time
such airport is used by Navy as training
field but does not answer question as to the
continued operation after Navy ceases to use
as training field. The C.A.A. require mini-
mum lease term of 25 years before will con-
struct field with provision that airport be
kept open as commercial field for balance of
lease term after Navy ceases to use for train-
ing purposes"

As pointed out in Opinion No. 0-5330, our opin-
ion number 0-4972 holds that counties have no statutory au-
thority under Article 1269h, Vernon's Annotated Civil Stat-
utes, to lease land from individuals for airport purposes.

Article 5248e, Vernon's Annotated Civil Statutes,
authorizes the acquisition of land by counties by lease only
for the use of the Federal Government; and not for their own

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use or for the operation of a commercial airport. When land is leased under authority of Article 5248e, the authorized lease term is that period the Federal Government contracts to use the land. Moreover, Article 1269h, Vernon's Annotated Civil Statutes, authorizes the operation of an airport by counties only when the land is acquired by purchase or condemnation in the manner there set forth.

Counties may act through their commissioners' courts only in the furtherance of county business (Article V, Section 18, Constitution of Texas) and then their authority is strictly limited to those powers expressly or impliedly conferred by law. Commissioners' Court vs. Wallace, 15 S.W. (2d) 535; 11 Texas Jurisprudence, page 563. Other than the statutes enumerated in opinions 0-4972, 0-5330, and this supplement, we have found none bearing upon the problem.

We therefore advise you that in our opinion your county is not authorized to operate a commercial airport on land leased from an individual for the use of the Federal Government when the Government ceases to use such land; and that the authorized lease term under Article 5248e, Vernon's Annotated Civil Statutes, is that period the Government contracts to use the land.

We regret that inadvertently we failed to enclose a copy of our opinion number 0-4972 which you will find herewith.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Jas. D. Smullen
Jas. D. Smullen
Assistant

APPROVED NOV 18, 1943

FIRST ASSISTANT
ATTORNEY GENERAL

JDS:ff
encl.

